**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**CIVIL APPELLATE JURISDICTION**

Writ Petition No. 4678 of 1991

Municipal Corporation of the
City of Pune .. Petitioner
V/s.
Shri Prabhakar Damodar Dikshit .. Respondent

Mr. R.M. Pethe i/b. Mr. R.G. Ketkar for the Petitioner
Mr. Tanaji Matugade i/b. Mr. A.V. Anturkar for the Respondent

**CORAM : DR. S. RADHAKRISHNAN, J.**
**DATED : 28.11.2005.**

**P.C.:-**

1. Heard the learned counsel for the Petitioner and the learned counsel for the Respondent. The Petitioner is challenging the order passed by the Principal Judge of Small Causes Court, Pune dated 17.12.1990.

2. It appears that the Respondent aggrieved by the assessment order passed by the Petitioner Municipal Corporation, preferred an Appeal before the Small Causes Court, under Section 406 of the Bombay Provincial and Municipal Corporations Act, 1949. Pune Municipal Corporation appears to have assessed the Respondent's property by it's order dated 20.9.1989, admeasuring 630 sq ft., constructed area on a plot admeasuring 2750 sq. ft. with a rateable value of Rs. 3850/-. The Respondent had challenged the same, contending therein that the rateable value is within the range of Rs. 1500/- - Rs. 2000/-. In the said Appeal, the Respondent had produced evidence, clearly indicating that in the very same Co-operative Society, wherein the plots are situated in adjacent plots, admeasuring the same area as that of the Respondent, in

the case of one Ambike, the Corporation had assessed



the same @ rateable value of Rs. 1850/-. Similarly, another Rasal, whose plot was slightly smaller, the rateable value was fixed at Rs. 1700/-. However, the Pune Municipal Corporation, chooses not to lead any evidence to the contrary to indicate that the Respondents property's assessment should be @ Rs. 3850/- and fails to produce the material based on which the said assessment was arrived, the Pune Municipal Corporation chooses not to lead evidence whatsoever before the said Appellate authority.

3. The learned Principal Judge, Small Causes Court, Pune by the aforesaid impugned order in paragraph 5 has discussed in detail and found that as in the case of Ambike, the assessment is @ Rs. 1850/-, which property also had identical area as that of the Respondent in the same vicinity, under these circumstances, the learned Principal Judge had fixed the rateable value of the Respondent @ Rs. 2,000/-.

4. The aforesaid judgment does not suffer from any jurisdictional or any error apparent on the face of record and the judgment is based on material and evidence on record. As the Pune Municipal Corporation has chosen not to produce any record to the contrary, one can not find any fault with the same. Writ Petition is totally devoid of merits, the same stands dismissed.

**(DR. S. RADHAKRISHNAN, J.)**